

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEVEN ANTHONY GUZMAN,

Petitioner, No. CIV S-04-0700 FCD GGH P

vs.

A. LAMARQUE, Warden.

**Respondent. ORDER**

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's denial April 24, 2009, denial of his application for a writ of habeas corpus. Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The certificate of appealability must “indicate which specific issue or issues satisfy” the requirement. 28 U.S.C. § 2253(c)(3).

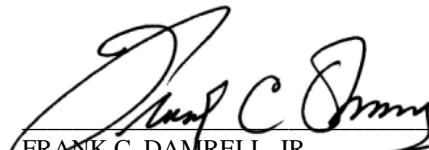
A certificate of appealability should be granted for any issue that petitioner can demonstrate is ““debatable among jurists of reason,”” could be resolved differently by a different court, or is ““adequate to deserve encouragement to proceed further.”” *Jennings v. Woodford*,

1 290 F.3d 1006, 1010 (9th Cir. 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).<sup>1</sup>

2 Petitioner has made a substantial showing of the denial of a constitutional right in  
3 the following issues presented in the instant petition: 1) whether due process was violated by  
4 imposition of a 31-year-to-life sentence when the trial court only advised petitioner, at the time  
5 of his no-contest plea to voluntary manslaughter by use of a knife, that his maximum sentence  
6 could be 25 years to life; 2) whether petitioner was subjected to ineffective assistance of counsel  
7 with regard to imposition of the sentence; 3) whether sufficient evidence supported the trial  
8 court's finding that petitioner was sane at the time of the offense.

9 Accordingly, IT IS HEREBY ORDERED that a certificate of appealability is  
10 issued in the present action.

11 DATED: May 21, 2009.



12 FRANK C. DAMRELL, JR.  
13 UNITED STATES DISTRICT JUDGE

25 <sup>1</sup> Except for the requirement that appealable issues be specifically identified, the  
26 standard for issuance of a certificate of appealability is the same as the standard that applied to  
issuance of a certificate of probable cause. Jennings, at 1010.